

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

KEVIN MICHAEL SMITH, #166532,

Petitioner,

Case Number: 07-CV-12979

v.

Honorable Anna Diggs Taylor

JERI ANN SHERRY,

Respondent.

**ORDER DENYING WITHOUT PREJUDICE PETITIONER'S
SECOND MOTION FOR APPOINTMENT OF COUNSEL**

Petitioner Kevin Michael Smith has filed a *pro se* petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254, alleging that he is incarcerated in violation of his constitutional rights. Before the Court is Petitioner's "Second Motion for Appointment of Counsel" (Dkt. # 8).

As the Court previously stated, the constitutional right to counsel in criminal proceedings provided by the Sixth Amendment does not apply to an application for writ of habeas corpus, which is a civil proceeding. *Cobas v. Burgess*, 306 F.3d 441, 444 (6th Cir. 2002), *cert. denied*, 538 U.S. 984, 123 S.Ct. 1793, 155 L.Ed.2d 677 (2003), *reh. denied*, 539 U.S. 970, 123 S.Ct. 2666, 156 L.Ed.2d 677 (2003). There exists no constitutional right to the appointment of counsel in habeas cases, and the court has broad discretion in determining whether counsel should be appointed. *Childs v. Pellegrin*, 822 F.2d 1382, 1384 (6th Cir. 1987) ("[A]ppointment of counsel in a civil case is . . . a matter within the discretion of the court. It is a privilege and not a right.") (internal quotation omitted). A habeas petitioner may obtain representation at any stage of the case "[w]henever the United States magistrate or the court determines that the

interests of justice so require.” 18 U.S.C. § 3006A(a)(2)(B). In the instant case, the Court determines after careful consideration that the interests of justice do not require appointment of counsel at this time.

Accordingly, **IT IS ORDERED** that Petitioner’s “Second Motion for Appointment of Counsel” is **DENIED WITHOUT PREJUDICE**. The Court will reconsider Petitioner’s motion if it determines at a later date that appointment of counsel is necessary. Petitioner need not file any additional motions.

DATED: March 24, 2008

s/Anna Diggs Taylor

ANNA DIGGS TAYLOR

UNITED STATES DISTRICT JUDGE

CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing Order was served upon counsel of record via the Court's ECF System to their respective email addresses or First Class U.S. mail disclosed on the Notice of Electronic Filing on March 24, 2008.

Kevin Smith, #166532
Chippewa Correctional Facility
4269 W. M-80
Kincheloe, MI 49784

s/Johnetta M. Curry-Williams
Case Manager